

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of

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RM-9405

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Establishment of a Public Service Radio
Pool in the Private Mobile Frequencies
Below 800 MHz**

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To: The Commission

**REPLY OF COMMONWEALTH EDISON COMPANY
TO STATEMENTS REGARDING
PETITION FOR RULEMAKING**

Commonwealth Edison Company ("ComEd"), through its undersigned counsel and pursuant to Section 1.405(b) of the Rules and Regulations of the Federal Communications Commission ("FCC"), 47 C.F.R. §1.405(b), hereby submits this Reply to Statements filed in Support of or in Opposition to the Petition for Rulemaking filed with the Commission on August 14, 1998 by UTC, the Telecommunications Association, the American Petroleum Institute ("API"), and the Association of American Railroads ("AAR").¹

Introduction

ComEd is the largest public utility in the state of Illinois, generating and distributing electric power to over 3.4 million customers representing approximately 8 million people. Its

¹ This Petition appeared on a Commission Public Notice dated November 23, 1998, Report No. 2306, mimeo 90739.

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extensive service territory includes the Chicago metropolitan area, as well as the northern fifth of the state of Illinois. In addition to the conventional generation of power, ComEd is one of the nation's largest providers of nuclear generated power, with ten nuclear reactors serving customers throughout its operating territory.

To facilitate its internal communications and the protection and monitoring of its power generation, transmission and distribution systems, ComEd operates extensive private land mobile and microwave communications systems. On the land mobile side, ComEd utilizes a wide-area 900 MHz trunked system, as well as significant operations in the bands below 800 MHz -- approximately forty stations in the 150 MHz band, and fifteen in the 450 MHz band -- to provide mobile communications in support of the company's electric utility operations. ComEd is thus vitally interested in Commission action on the above-captioned petition for rulemaking, which, if implemented, would provide a dedicated spectrum home in the bands below 800 MHz for critical mobile communications operations undertaken by electric utilities. The petition would further institute, for the first time, protected service contours for utility operations in the bands below 800 MHz.

Discussion

Establishment of a Public Service Radio pool by the Commission would be in the public interest and would permit the FCC to remedy deficiencies in the current coordination framework that place critical mobile communications in jeopardy of interference from the operations of other Part 90 eligibles. ComEd's responsibilities to provide electric power to one of the nation's largest metropolitan areas, and its experience with employing land mobile radio systems operating in the bands below 800 MHz to coordinate these activities, make the company well-

qualified to provide support to the petition, especially as it proposes to include electric utilities in the Public Service Radio pool.

Those parties that oppose the Petition generally take the position that all private land mobile radio operations are important, and thus no segment of the private land mobile community is entitled to a spectrum set-aside under the current land mobile regulatory framework. While all private services are important, and all private services have unique reliability and control requirements that may not be capable of being met by commercial carriers, the fact remains that mobile communications operations conducted by utilities, pipelines and railroads must be afforded a higher level of protection. Commencement of a rulemaking proceeding to establish a Public Service Radio pool would provide a level of recognition and protection that is appropriate and due these “critical infrastructure industries.”

The Personal Communications Industry Association (PCIA) and the Industrial Telecommunications Association (ITA) filed Comments that generally oppose the establishment of a Public Service Radio pool. PCIA and ITA note the safety requirements generally faced by all eligibles in the Industrial/Business pool, and the role that mobile radio plays in permitting these Industrial/Business pool licensees to meet these needs. On this basis, they argue against creation of a separate pool for the operations of industries, such as power utilities, that support the nation’s basic infrastructure.

It is not ComEd’s intention to challenge those who note the role that mobile radio plays in supporting licensee internal safety requirements. However, in support of creation of a Public Service Radio pool, ComEd emphasizes that the company and other power utilities provide the

core resource – electricity -- that permits modern society to function. The national energy infrastructure is critical to the economic prosperity, national defense and quality of life in the United States. For the population as a whole, utilities have responsibility for providing electric power to fuel other critical infrastructures such as telecom, banking and finance, transportation and government facilities throughout their service territories, while simultaneously assuring the safety of their crews working on distribution lines. While safety is a concern for all Part 90 eligibles, power utilities and other critical infrastructure industries such as the petroleum pipeline industry and the railroad industry have demonstrably more crucial requirements for reliable, interference-free communications in order to serve the population at large, and other critical infrastructures, as well as safeguard the lives of their employees.²

The existing Part 90 spectrum framework does not recognize these crucial differences – power utilities and other critical infrastructure industries are members of the Industrial/Business category, which includes private carriers offering commercial mobile service in the bands below 800 MHz. The fact is that under the current rules as promulgated by the Commission's Refarming proceeding, other Industrial/Business entities have access to channels upon which crucial mobile radio operations are conducted by power utilities.

ComEd notes with favor that ITA expressed support for mandatory protected service contours for the power, petroleum and railroad services. In the 450-512 MHz band, these contours would prohibit the 21 dBu contour of a proposed station from interfering with the 39 dBu contour of the incumbent system. As the UTC/API/AAR petition notes, adopting

² See U.S. Department of Energy draft "Schedule and Milestones for Preparing the National Infrastructure Assurance Plan for the Energy Sector," prepared by U.S. DOE Critical Infrastructure Protection Task Force, October 2, 1998.

protected service contours would best protect existing stations in the critical infrastructure industries. As the petition also observes, however, the best level of protection for new facilities that may need to be authorized and constructed would be through the creation of a Public Service Radio pool.

ComEd wishes to oppose the position taken by the American Mobile Telecommunications Association (AMTA) asserting the feasibility of shared access by commercial trunked systems on channels below 800 MHz employed by critical infrastructure industries. First, due to wide-area coverage requirements and reliability concerns, use of commercial trunked systems is not feasible for power utilities, particularly in the bands below 800 MHz. Second, the absence of protected service contours for critical infrastructure industries employing standard base-mobile configurations places these stations in particular danger of interference from trunked commercial systems that may be authorized on co-channel or adjacent channel frequencies. These concerns are an inevitable result of the actions taken in the Commission's refarming proceeding, which bestowed substantial discretion on frequency coordinators to recommend the assignment of frequencies from the broad Industrial/Business pool.

ComEd notes that, inevitably, the incentive of commercial systems in the bands below 800 MHz would be to maximize the number of channel assignments for their operations. In the congested Chicago area, this tendency is of great concern to ComEd. Conversely, the creation of a Public Service Radio pool in the bands below 800 MHz would tend to decrease the need of utilities for back-up channels employed to assure that alternative channels of communication are available when interference occurs in the bands below 800 MHz. This observation concerning

the ultimate spectrum efficiency gains that may be gleaned from creating a Public Service Radio pool was well made by PacifiCorp in its Comments to the Petition.

ComEd notes that the seriousness of interference concerns has been reflected by several members of the U.S. House of Representatives, who have written Chairman Kennard asking that long-term action be implemented to prevent interference to critical utility operations. Adoption of a Notice of Proposed Rule Making seeking the creation of a Public Service Radio pool would be the quickest, most effective method for the Commission to meet this important goal. The petition itself is quite comprehensive, citing specific frequencies and offering detailed rules for the newly proposed Public Service Radio pool. The petition offers a “stand-alone” framework for rapid Commission implementation.

Conclusion

ComEd urges the Commission to reject the arguments of those parties that seek to characterize all private land mobile operations as indistinguishable. The requirements of the critical infrastructure industries for a Public Service Radio pool are compelling. The Commission should quickly adopt a Notice of Proposed Rule Making incorporating the proposed rule provisions advanced by the above-captioned petition.

WHEREFORE, THE PREMISES CONSIDERED, the Commonwealth Edison Company requests that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

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Dated: January 7, 1999

Certificate of Service

I, Constance Maisel, a secretary at the law firm McDermott, Will & Emery, do hereby certify that I have mailed copies of the foregoing Reply in regard to RM-9405 to:

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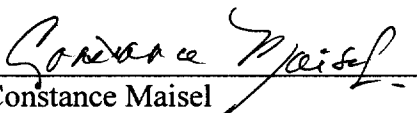
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